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December 15, 2016

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

RE: Notice of Ex Parte Communication, WC Docket Nos. 10-90, 14-58 and 14-259

Dear Secretary Dortch:

On December 13, 2016, the undersigned, along with Jeffrey S. Nordhaus, Executive Vice President, Innovation & Broadband, Empire State Development and Charles Small, Associate Director of Federal Affairs of the Washington D.C. Office of New York Governor Andrew Cuomo, met with Carol Matthey, Alexander Minard and Heidi Lankau from the Wireline Competition Bureau to discuss New York's Petition for Expedited Waiver, which is currently pending in the above-captioned proceedings.

During the meeting, the State representatives noted that the New York broadband program is technology neutral and open to wireline, fixed wireless, and satellite broadband providers.<sup>1</sup> They indicated that the rules for the upcoming phase three of the New York broadband auction would specifically state that satellite providers are eligible to participate in the auction. Mr. Nordhaus confirmed that broadband services providing 100 Mbps or greater download speeds are preferred in the auction, but only if bids for such services are cost reasonable. In addition, broadband services providing 25 Mbps or greater are eligible for the auction in areas where cost-reasonable 100 Mbps services are unavailable. In such cases, New

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<sup>1</sup> See <https://nysbroadband.ny.gov/broadband-overview>

York will award funding to the bidder with the lowest cost of service in the State regardless of technology. As a further indication that satellite services are eligible to compete in New York's auction, representatives of the State have held discussions with satellite providers regarding their interest in participating in the New York broadband program.

The parties also reviewed the scope of phase three of New York's auction. In addition to covering the census blocks affected by Verizon's decision to decline the CAF funding, this phase will also cover census blocks in extremely high-cost areas served by Windstream, FairPoint and Verizon that did not receive any winning bids in prior rounds. These extremely high-cost areas are also covered by the upcoming CAF reverse auction. As with other census blocks, broadband providers offering 25 Mbps or greater will be eligible to receive State funding for these extremely high-cost areas in phase three of New York's auction when cost-reasonable 100 Mbps services are unavailable.

This letter is being submitted electronically in the above-referenced dockets pursuant to Section 1.1206(b) of the Commission's rules. Should you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/

John M. Beahn

*Counsel to Empire State Development*

cc: Carol Matthey  
Alexander Minard  
Heidi Lankau